

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

GABRIEL GONZALEZ

Reg. #30515-112

PLAINTIFF

v.

No. 4:19-cv-881-DPM

UNITED STATES OF AMERICA

DEFENDANT

ORDER

On *de novo* review, the Court adopts Magistrate Judge Harris's recommendation, *Doc. 7*, and overrules Gonzalez's objections, *Doc. 14*. FED. R. CIV. P. 72(b)(3). Gonzalez's FTCA claim is barred by sovereign immunity. 28 U.S.C. § 2680(c); *Ali v. Federal Bureau of Prisons*, 552 U.S. 214, 228 (2008).

Gonzalez alternatively asks the Court to reconstrue his complaint as a *Bivens* action. *Doc. 14 at 1*; *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 397 (1971). The Court construes this as a motion to amend. That motion is denied, though, because the amendment would be futile. An intentional deprivation of property does not violate due process if there is a meaningful post-deprivation remedy. *Hudson v. Palmer*, 468 U.S. 517, 533 (1984). The Bureau's Administrative Remedy Process fits that bill.

Gonzalez's amended complaint will be dismissed without prejudice for failure to state a claim. This dismissal counts as a "strike"

within the meaning of 28 U.S.C. § 1915(g). An *in forma pauperis* appeal from this Order and accompanying Judgment would not be taken in good faith.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

21 July 2020